IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15941 of 2005

Between:

1. M.Veerraju, s/o Sathi Raju.
2. M. Veera Venkata Prabakara Chowdary, S/o. Janardhan.
3. Ch. Ramatulasamma, W/o. Bullabbaih.
4. M. Veera Bhadrarao, s/o. Krishna Murthy.
5. B. Venkata Rao, S/o. Veerraju.
6. D. Manikyamba, W/o. Satyanarayana.
7. Ch. Veera Venkata Rao, S/o. Janaki Ramayya.
8. D.Srihari Chowdary, S/o. Venkata Rao.
9. Ch. Padmaja, w/o. Surya Sankara Prasad.
10. K. Subba Lakshmi, W/o.late Venkata Rao

(All are residents of Sahapuram, Pedapudi Mandal, East Godavari)

..... PETITIONERS

AND

1. The Revenue Divisional Officer,

Kakinada, East Godavari District.

2. The Mandal Revenue Officer,

Pedapudi Mandal, East Godavari District.

3. The Dvisional Engineer,

R & B Department, Kakinada,

East Godavari District.

4. The Executive Engineer,

R & B Department, Kakinada,

East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in seeking to lay a road on a portion of the lands owned by the petitioners in Sy.Nos.287/1 & 2 admeasuring Ac.1.63 cents, 296/2 admeasuring Ac.0.27 cents, 292/4 admeasuring Ac.0.55 cents, 285/4 admeasuring Ac.1.03 cents, 292/8 admeasuring Ac.0.70 cents, 307/3 admeasuring Ac.1.40 cents, 307/4 admeasuring Ac.0.91 cents, 308/2 admeasuring Ac.0.60 cents, 295/3 admeasuring Ac.1.52 cents, and 292/4 admeasuring Ac.2.00 respectively, without conducting survey, as arbitrary, illegal, colourable exercise of power, contrary to procedure contemplated under the Land Acquisition Act, violative of the Constitution Right guaranteed under Article 300-A of the Constitution of India, apart from being violative of the Judgments of this Hon'ble Court and consequently restrain the respondents from interfering with the petitioners' peaceful possession and enjoyment of the said lands.

Counsel for the Petitioner : Mr.C.V.R.RUDRA PRASAD

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court at the stage of admission, made the following :

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ORDER:

This Writ Petition is filed by the petitioners to declare the action of the respondents in seeking to lay a road on a portion of the lands owned by the petitioners in Sy.Nos.287/1 & 2 admeasuring Ac.1.63 cents, 296/2 admeasuring Ac.0.27 cents, 292/4 admeasuring Ac.0.55 cents, 285/4 admeasuring Ac.1.03 cents, 292/8 admeasuring Ac.0.70 cents, 307/3 admeasuring Ac.1.40 cents, 307/4 admeasuring Ac.0.91 cents, 308/2 admeasuring Ac.0.60 cents, 295/3 admeasuring Ac.1.52 cents, 308/2 admeasuring Ac.0.60 cents, 295/3 admeasuring Ac.1.52 cents and 292/4 admeasuring Ac.2.00 respectively, without conducting survey, as arbitrary, illegal and contrary to the procedure contemplated under the Land Acquisition Act, 1894 and consequently to restrain the respondents from interfering with the petitioners' peaceful possession and enjoyment of the said lands.

It is the case of the petitioners that they have been in peaceful possession and enjoyment of the agricultural lands and cultivating the paddy crop in them and the pattedar pass books in respect of their lands were issued by the second respondent and their lands are either self acquired or ancestral properties but not the assigned lands and that they are paying the land revenue regularly. While so, there was a rumour in the village that the respondents are taking steps to widen the existing road passing through the village affecting the agricultural lands as well as the houses without following due process of law. Therefore, some of the petitioners who are aware of the procedure have applied for survey of the lands owned by them so that the respondents can lay the road on their lands without encroaching upon the agricultural fields. In September, 2004 the petitioners have also personally met the first and third respondents and requested them to follow due process of law if they wanted to lay a road through the lands of the petitioners and the respondents assured that as and when they really propose to lay the road, the procedure contemplated under the Land Acquisition Act, 1894 will be followed. While the matters stood thus, on 16.07.2005, a person claiming to be the contractor came to the lands of the petitioners with workers stating that he is going to fill the lands. Hence, the Writ Petition.

A Division Bench of this Court in **PILLI LAKSHMANA RAO AND OTHERS v. EXECUTIVE OFFICER, GRAM PANCHAYAT, CHALLAPALLE AND OTHERS** held as under:

> "When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them from their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanation, the authorities shall pass appropriate orders, if necessary, by giving oral hearing wherever there is a dispute as to the ownership of the property."

Following the same, the Writ Petition is disposed of with a direction to the respondents not to interfere with the peaceful possession and enjoyment of the petitioners over the lands in Sy.Nos.287/1 and 2 admeasuring Ac.1.63 cents, 296/2 admeasuring Ac.0.27 cents, 292/4 admeasuring Ac.0.55 cents, 285/4 admeasuring Ac.1.03 cents, 292/8 admeasuring Ac.0.70 cents, 307/3 admeasuring Ac.1.40 cents, 307/4 admeasuring Ac.0.91 cents, 308/2 admeasuring Ac.0.60 cents, 295/3 admeasuring Ac.1.52 cents and 292/4 admeasuring Ac.2.00 respectively without following due process of law. There shall be no order as to costs.

(ELIPE DHARMA RAO, J)

Dt: 21.07.2005

bsv/lvl

To

1. The Revenue Divisional Officer,
   Kakinada, East Godavari District.

2. The Mandal Revenue Officer,
   Pedapudi Mandal, East Godavari District.

3. The Dvisional Engineer,
   R & B Department, Kakinada,
   East Godavari District.

4. The Executive Engineer,
   R & B Department, Kakinada,
   East Godavari District.

5. Two CCs to the Government Pleader for Land Acquisition, High Court of A.P., Hyderabad (OUT)

6. Two CD copies